

deportation or removal shall be without prejudice to the renewal of such application or the authorizing of such admission by the special inquiry officer without additional fee.

[28 FR 4251, Apr. 30, 1963]

**§ 235.8 Temporary exclusion.**

(a) *Report.* Any immigration officer who temporarily excludes any alien under section 235(c) of the Act shall report the action promptly to the district director who has administrative jurisdiction over the port at which the alien arrived. The immigration officer shall, if possible, take a brief sworn question-and-answer statement from the alien, and the alien shall be notified by personal service of Form I-147 of the action taken and the right to make written representations. If the subject of the report is an alien who seeks to enter the United States other than under section 101(a)(15)(D) of the Act, the district director shall forward the report to the regional commissioner for further action as provided in paragraph (b) of this section.

(b) *Action by regional commissioner.* If the regional commissioner is satisfied that the alien is inadmissible to the United States under paragraph (27), (28), or (29) of section 212(a) of the Act and if the regional commissioner, in the exercise of his discretion, concludes that such inadmissibility is based on information of a confidential nature the disclosure of which would be prejudicial to the public interest, safety, or security, he may deny any hearing or further hearing by a special inquiry officer and order such alien excluded and deported, or enter such other order in the case as he deems appropriate. In any other case the regional commissioner may direct that an immigration officer shall further examine the alien as to his admissibility or that the alien be given a hearing or further hearing before a special inquiry officer.

(c) *Finality of decision.* The decision of the regional commissioner provided for in paragraph (b) of this section shall be final and no appeal may be taken therefrom. The decision of the regional commissioner shall be in writing, signed by him and, unless it contains confidential matter, a copy shall be

served on the alien. If the decision contains confidential matter, a separate order showing only the ultimate disposition of the case shall be signed by the regional commissioner and served on the alien.

(d) *Hearing by immigration judge.* If the regional commissioner directs that an alien temporarily excluded be given a hearing or further hearing before an immigration judge, the hearing and all further proceedings in the matter shall be conducted in accordance with the provisions of section 236 and other applicable sections of the Act to the same extent as though the alien had been referred to an immigration judge by the examining immigration officer; except, that if confidential information, not previously considered in the matter, is adduced supporting the exclusion of the alien under paragraph (27), (28), or (29) of section 212(a) of the Act, the disclosure of which, in the discretion of the immigration judge, may be prejudicial to the public interest, safety, or security, the immigration judge may again temporarily exclude the alien under the authority of section 235(c) of the Act and further action shall be taken as provided in this section.

[22 FR 9791, Dec. 6, 1957; 22 FR 9519, Nov. 28, 1957, as amended at 48 FR 8, Jan. 3, 1983; 48 FR 30350, July 1, 1983]

**§ 235.9 Conditional entries.**

(a) *Inspection of conditional entrant and refugee parolee as to admissibility for permanent residence.* Each alien who has been admitted under section 203(a)(7) as a conditional entrant, or paroled under section 212(d)(5) of the Act as a refugee prior to September 30, 1980, and who is not otherwise eligible for retroactive adjustment of status to permanent resident, shall be required to appear before an immigration officer within one year following conditional entry or parole. If over 14 years of age, the conditional entrant or parolee shall be interrogated under oath by an immigration officer and a determination of admissibility shall be made under parts 235 and 236 of this chapter. Except as provided in parts 245 and 249 of this chapter, an application under this part shall be the sole method of requesting the exercise of discretion under section 212 (g), (h), or (i) of the Act, insofar as it relates to

the excludability of an alien in the United States. Any alien who is inspected and admitted under this part who is eligible for and wishes to apply for naturalization immediately shall be processed under § 235.9(b)(3) of this chapter.

(b) *Request to “roll back” permanent residence date by permanent resident who was paroled into the United States as a refugee*—(1) *General*. A request by a permanent resident who was originally paroled into the United States as a refugee before September 30, 1980 to “roll back” the date of acquiring permanent residence to the date of original parole as a refugee shall be made in writing to the district director having jurisdiction over the applicant’s place of residence. Each request must be accompanied by the Alien Registration Card, Form I-551, previously issued to the applicant, and completed forms G-325 and FD-258. Where an applicant is eligible for and wishes to apply immediately for naturalization, the request must contain a statement to that effect. The decision on the request shall be made by the district director. There is no appeal from the district director’s decision.

(2) *Applicant for “roll back” who is not eligible for or who does not wish to file an application for naturalization immediately*. Where the recipient of a “roll back” would not be immediately eligible to apply for naturalization, or if eligible, does not wish to do so immediately, the “roll back” request must be accompanied by three identical color photographs taken within the past thirty days. The photographs must comply with the requirements for an ADIT card. These requirements may be obtained from any office of the Immigration and Naturalization Service. If the request is approved, the applicant shall be furnished a new Alien Registration Card bearing the new date lawful admission for permanent residence is recorded.

(3) *Where “roll back” would make applicant immediately eligible for naturalization and applicant intends to file the application immediately*. Where a “roll back” of the date of permanent residence under this regulation would make the applicant immediately eligible for naturalization, and the appli-

cant indicates a desire to file an application for naturalization immediately, the district director shall receive the “roll back” application and process it. If the “roll back” application is granted, the new date lawful admission for permanent residence is recorded shall be entered on Form I-181 and placed in the applicant’s file. The applicant shall then be furnished the appropriate forms and instructions for filing the application for naturalization. A new Alien Registration Card need not be issued under these circumstances. Where a new Alien Registration Card is not issued, Form I-181 will be so noted.

(c) *Termination of conditional entrant or refugee parole status*. Whenever a district director has reason to believe that a conditional entrant under section 203(a)(7) of the Act or an alien paroled or a refugee under section 212(d)(5) of the Act before September 30, 1980, whose status has not otherwise been terminated or changed, it or has become inadmissible to the United States under any provision (except paragraph (20)) of section 212(a) of the Act, the district director shall, in the case of a parolee, comply with § 212.5(d) of this chapter, and thereafter serve on either class of alien, Notice to Alien Detained for Hearing Before Immigration Judge, Form I-122, in accordance with § 235.6 of this part. The alien shall be referred for a hearing before an immigration judge under sections 235, 236, and 237 of the Act and parts 235, 236, and 237 of this chapter. If the immigration judge determines that the alien is not inadmissible to the United States or, if inadmissible, that the alien is prima facie eligible for a waiver on the grounds of excludability under section 212 (g), (h), or (i) of the Act, the judge shall order the proceedings terminated and refer the matter to the district director for further proceedings under section 203(g) of the Act. The order shall be without prejudice to renewing proceedings or instituting new proceedings under this section. There is no appeal from a decision by a district director denying an application for a waiver under section 212 (g), (h), or (i) of the Act, but the denial is without prejudice to the renewal of the application in proceedings before an immigration

judge. If the immigration judge determines that the alien is inadmissible to the United States for permanent residence under any provision of the Act, except section 212(a)(20), and that the alien is not entitled to the benefits of section 212 (g), (h), or (i) of the Act, the judge shall order the termination of the alien's conditional entry and make such further order as may be proper. The decision of the immigration judge may be appealed under §236.7 of this chapter.

[48 FR 8, Jan. 3, 1983, as amended at 58 FR 48778, Sept. 20, 1993]

#### **§235.10 U.S. Citizen Identification Card.**

(a) *General.* The U.S. Citizen Identification Card, Form I-197, is no longer issued by the Service but valid existing cards will continue to be acceptable documentation of U.S. citizenship. Possession of the identification card is not mandatory for any purpose. A U.S. Citizen Identification Card remains the property of the United States. Because the identification card is no longer issued, there are no provisions for replacement cards.

(b) *Surrender and voidance—(1) Institution of proceeding under section 236, 242 or 342 of the Act.* A U.S. citizen identification card must be surrendered provisionally to a Service office upon notification by the district director that a proceeding under section 236, 242 or 342 of the Act is being instituted against the person to whom the card was issued. The card shall be returned to the person if the final order in the proceeding does not result in voiding the card under this paragraph. A U.S. Citizen Identification Card is automatically void if the person to whom it was issued is determined to be an alien in a proceeding conducted under section 236 or 242 of the Act, or if a certificate, document, or record relating to that person is cancelled under section 342 of the Act.

(2) *Investigation of validity of identification card.* A U.S. Citizen Identification Card must be surrendered provisionally upon notification by a district director that the validity of the card is being investigated. The card shall be returned to the person who surrendered it if the investigation does not result

in a determination adverse to his or her claim to be a United States citizen. When an investigation results in a tentative determination adverse to the applicant's claim to be a United States citizen, the applicant shall be notified by certified mail directed to his or her last known address. The notification shall inform the applicant of the basis for the determination and of the intention of the district director to declare the card void unless within 30 days the applicant objects and demands an opportunity to see and rebut the adverse evidence. Any rebuttal, explanation, or evidence presented by the applicant must be included in the record of proceeding. The determination whether the applicant is a United States citizen must be based on the entire record and the applicant shall be notified of the determination. If it is determined that the applicant is not a U.S. citizen, the applicant shall be notified of the reasons, and the card deemed void. There is no appeal from the district director's decision.

(3) *Admission of alienage.* A U.S. Citizen Identification Card is void if the person to whom it was issued admits in a statement signed before an immigration officer that he or she is an alien and consents to the voidance of the card. Upon signing the statement the card must be surrendered to the immigration officer.

(4) *Surrender of void card.* A void U.S. Citizen Identification Card which has not been returned to the Service must be surrendered without delay to an immigration officer or to the issuing office of the Service.

(c) *U.S. Citizen Identification Card previously issued on Form I-179.* A valid U.S. Citizen Identification Card issued on Form I-179 continues to be valid subject to the provisions of this section.

[48 FR 9504, Mar. 7, 1983]

#### **§235.11 Admission of conditional permanent residents.**

(a) *General—(1) Conditional residence based on family relationship.* An alien seeking admission to the United States with an immigrant visa as the spouse or son or daughter of a United States citizen or lawful permanent resident